MONTANA LEGISLATIVE HISTORY

Chapter 386 1981

Bill H _____ S 64 Original bill & history ✓ C

H. Committee on State Administration			S. Committee on Labor & Employment Relations		
Hearing Date(s)	Mar 10	✓ C	Hearing Date(s)	Jan 13	✓ C
	Mar 19	✓ C	no minutes	1-14	C
		C	no minuts	1-17	C
		C			C
Date Out	Mar 19	✓ C	Out	1-29	✓

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

REPORT: 1/13, DO PASS
2ND READING: 1/15, DO PASS
3RD READING: 1/17, YEAS: 45; NAYS: 0

TRANSMITTED TO HOUSE: 1/17
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/19
HEARING: 1/26
REPORT: 1/28, BE CONCURRED IN
2ND READING: 2/5, ON MOTION, PASSED FOR THE DAY.
ON MOTION, 2/5, PASSED CONSIDERATION UNTIL THE 46TH LEGISLATIVE DAY.
2ND READING: 3/2, YEAS: 91; NAYS: 0
3RD READING: 3/4, YEAS: 94; NAYS: 5

RETURNED TO SENATE: 3/4
TRANSMITTED TO GOVERNOR: 3/10/81
ACTION SIGNED: 3/11/81
CHAPTER 31

SB 63 -- TO CONFORM THE STATUTES REGARDING AMENDMENT OF CHARGES IN CRIMINAL CASES TO CASE LAW.
PREFILED AND REFERRED TO COMMITTEE ON JUDICIARY: 12/30/80
HEARING: 1/13
REPORT: 1/20, DO PASS
2ND READING: 1/28, DO PASS AS AMENDED
3RD READING: 1/26, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 1/26
REFERRED TO COMMITTEE ON JUDICIARY: 1/27
HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN
2ND READING: 3/5, YEAS: 88; NAYS: 0
3RD READING: 3/7, YEAS: 93; NAYS: 2

RETURNED TO SENATE: 3/7
TRANSMITTED TO GOVERNOR: 3/11/81
ACTION: 3/16, SIGNED
CHAPTER 62

SB 64 -- ELLIOTT -- TOTAL DISABILITY COMPENSATION BENEFITS TERMINATE WHEN....
INTRODUCED: 1-6
REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 1/6
HEARING: 1/13
REPORT: 1/14, DO PASS
RE-REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 1/17
HEARING: 1/29
REPORT: 2/10, DO PASS
2ND READING: 2/12, YEAS: 26; NAYS: 16
3RD READING: 2/14, YEAS: 28; NAYS: 21

TRANSMITTED TO HOUSE: 2/14
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/16
HEARING: 3/10
REPORT: 3/19, BE CONCURRED IN
ON MOTION, 3/26, PASSED FOR THE DAY.
ON MOTION, 3/27, PASSED CONSIDERATION TO 71ST LEGISLATIVE DAY.
2ND READING: 4/2, ON MOTION, PASSED FOR THE DAY.
3RD READING: 4/3, YEAS: 51; NAYS: 46

3RD READING: 4/4, YEAS: 53; NAYS: 47

RETURNED TO SENATE: 4/4

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/15, SIGNED
CHAPTER 386

SB 65 -- JOHNSON -- AMENDMENT TO SECTION 75-2-202 REQUIRING LEGISLATIV
APPROVAL OF STRINGENT AIR QUALITY STANDARDS.
INTRODUCED: 1/6
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY: 1/
HEARING: 1/30, ROOM 405
FAILED TO MEET TRANSMITTAL DEADLINE: 2/25 -- DIED

SB 66 -- HAZELBAKER -- ALLOWING THE ISSUANCE OF TEMPORARY OPERATIN
PERMIT TO SPECIAL FUEL USERS.
INTRODUCED: 1/6
REFERRED TO COMMITTEE ON HIGHWAYS AND TRANSPORTATION: 1/6
HEARING: 1/15
REPORT: 1/20, DO PASS AS AMENDED
2ND READING: 1/22, DO PASS
3RD READING: 1/24, YEAS: 45; NAYS: 0

TRANSMITTED TO HOUSE: 1/24
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/26
HEARING: 3/5
REPORT: 3/5, BE CONCURRED IN
2ND READING: 3/9, YEAS: 77; NAYS: 0
3RD READING: 3/11, YEAS: 94; NAYS: 0

RETURNED TO SENATE: 3/11
TRANSMITTED TO GOVERNOR: 3/16/81
ACTION: 3/18, SIGNED
CHAPTER 78

SB 67 -- JOHNSON, S. BROWN -- DIRECT THE COUNTY TREASURER TO INVES
SCHOOL DISTRICT MONEY IN....
INTRODUCED: 1/6
REFERRED TO COMMITTEE ON EDUCATION: 1/6
HEARING: 1/9
REPORT: 1/20, DO PASS
2ND READING: 1/22, DO PASS
3RD READING: 1/24, YEAS: 46; NAYS: 0

TRANSMITTED TO HOUSE: 1/24
REFERRED TO COMMITTEE ON EDUCATION: 1/26
HEARING: 2/9
REPORT: 2/9, BE CONCURRED IN
ON MOTION, 2/11, POSTPONED CONSIDERATION TO THE 40
LEGISLATIVE DAY.
2ND READING: 3/2 YEAS: 87; NAYS: 3
3RD READING: 3/4 YEAS: 96; NAYS: 1

RETURNED TO SENATE: 3/4
TRANSMITTED TO GOVERNOR: 3/9/81
ACTION: 3/12, SIGNED
CHAPTER 45

SB 68 -- BLAYLOCK -- AMENDMENT RELATING TO ELEMENTARY AND HIGH SCHOO

SENATE BILL NO. 64

INTRODUCED BY ELLIOTT

IN THE SENATE

January 6, 1981	Introduced and referred to Committee on Labor and Employment Relations.
January 14, 1981	Committee recommend bill do pass. Report adopted.
January 15, 1981	Bill printed and placed on members' desks.
January 17, 1981	Rereferred to Committee on Labor and Employment Relations.
February 10, 1981	Committee recommend bill do pass. Report adopted.
February 11, 1981	Bill printed and placed on members' desks.
February 12, 1981	Second reading, do pass.
February 13, 1981	Correctly engrossed.
February 14, 1981	Third reading, passed. Ayes, 28; Noes, 21. Transmitted to House.

IN THE HOUSE

February 16, 1981	Introduced and referred to Committee on State Administration.
March 19, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, pass consideration.
March 27, 1981	Second reading, pass consideration until 71st legislative day.

April 2, 1981	Second reading, pass consideration.
April 3, 1981	Second reading, concurred in.
April 4, 1981	Third reading, concurred in. Ayes, 53; Noes, 47.

IN THE SENATE

April 6, 1981	Returned from House. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

SENATE BILL NO. 64

INTRODUCED BY ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT TOTAL DISABILITY COMPENSATION BENEFITS WILL TERMINATE WHEN A CLAIMANT RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS OR WHEN DISABILITY SOCIAL SECURITY BENEFITS ARE CONVERTED TO RETIREMENT BENEFITS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Termination of total disability benefits upon retirement. If a claimant is receiving total disability compensation benefits and the claimant receives retirement social security benefits or disability social security benefits paid to the claimant are converted by law to retirement benefits, the claimant is considered to be retired and no longer in the open labor market. When the claimant is considered retired, the liability of the insurer is ended for payment of such compensation benefits. This section does not apply to permanent partial disability benefits. Medical benefits are expressly reserved to the claimant.

-End-

INTRODUCED BILL

SB 64

Jaussy

STATE OF MONTANA

REQUEST NO. 427-81

FISCAL NOTE

Form BD-15

In compliance with a written request received March 16, 19 81, there is hereby submitted a Fiscal Note for SB 64 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation:

Senate Bill 64 is an act to provide that total disability workers' compensation benefits will terminate when a claimant receives retirement Social Security benefits or when disability Social Security benefits are converted to retirement benefits.

Assumptions:

a.) Assume all permanent total injured workers currently receiving disability benefits will not be affected by this legislation. Only those claimants injured after the effective date of the bill will be impacted.

b.) Assume that the State Compensation Insurance Fund will experience one-half of the cases involving permanent total disability during any fiscal period.

c.) Based upon the ages of current recipients assume the average age of permanent total claimants is 44.7 years.

d.) Using ordinary mortality tables assume average life expectency to be 72.5 years.

e.) Assume that age 65 will be the retirement age.

f.) The reduction from age 72.5 years to 65.0 years equate to a 27% reduction in permanent total benefit payments.

Projections based on payouts:

Impacted Benefits	F/Y '82	F/Y '83
State Insurance Fund	$ 941,000	$1,256,000
Private Carrier & Self-Insurer	941,000	1,256,000
Estimated Impacted Benefits	$1,822,000	$2,512,000
% Reduction	27%	27%
	$ 508,140	$ 678,240

As the percentage of permanent benefits to earned premium increases, premium rates will necessarily increase to offset the expanding costs.

Fiscal Year	Earned Premium	Permanent Compensation	Percentage of Premium
76	$18,329,385	$ 50,119	0.3%
77	19,455,992	107,723	0.6
78	22,253,622	178,250	0.8
79	22,809.346	495,305	2.2
80	26,902,631	1,720,020	6.4
81	27,750,000	2,799,000	10.1
82*	28,900,000	3,740,000	12.9
83*	30,200,000	4,996,000	16.5

* Estimated Figures

The estimates for future Earned Premium and the estimates for future Permanent Total Compensation Payments were made independently of each other. If the projections for Permanent Total Payments hold true, Earned Premium would be insufficient.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

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47TH LEGISLATIVE SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB #32	1/5/81	1/8/81	1/13/81	1/13/81					
SB #52	1/5/81	1/8/81	1/13/81			1/13/81			
Re-ref. SB #52	1/15/81		1/22/81		1/22/81				
SB #60	1/5/81	1/8/81	1/20/81			1/20/81			
SB #64	1/6/81	1/13/81	1/13/81	1/13/81					
Re-ref. SB #64	1/17/81	1/29/81	2/10/81	2/10/81					
SB #101	1/12/81	Stays in	Committee						
SB #128	1/14/81	1/20/81	1/27/81	1/27/81					
SB #132	1/14/81	1/27/81	1/27/81	1/27/81					
SB #191	1/19/81	1/27/81	1/27/81		1/27/81				
SB #198	1/20/81	Stays in	Committee						
SB #226	1/21/81	2/3/81	2/10/81			2/10/81			
SB #313	1/28/81	2/5/81	2/17/81			2/17/81			
SB #318	1/29/81	2/5/81	2/10/81		2/10/81				
SB #360	2/3/81	2/12/81	2/17/81	2/17/81					
SB #378	2/6/81	2/12/81	2/19/81		2/19/81				

Use a separate sheet for Senate, House Bills, and Resolutions.

STATE LAW LIBRARY
MAY 5 1981
OF MONTANA

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 13, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Nelson on January 13, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

SENATE BILL 52: Chairman Nelson introduced Senator Pat Regan, sponsor of SB 52, to the Committee. Senator Regan explained the bill to the Committee. This is a bill to transfer the substantive provisions regarding maternity leave to the Montana Human Rights Commission from the Department of Labor and Industry.

Senator Regan offered two amendments to SB 52 and these amendments are attached to the minutes.

PROPONENTS OF SENATE BILL 52: Mr. David Hunter, representing the Department of Labor and Industry, stated they support SB 52.

Ms. Karen S. Townsend, representing the Montana Human Rights Commission, stated that they support this bill. Ms. Townsend called attention to a Fact Sheet which is attached with her testimony sheet.

Mr. Raymond D. Brown, representing the Montana Human Rights Commission, testified in support of SB 52. He also called attention to the Fact Sheet which is attached to the minutes.

Mr. John Frankino, representing the Montana Human Rights Commission, testified in support of SB 52 and referred to the Fact Sheet which is attached.

There were no opponents to SB 52 present at the hearing.

Senator Regan made closing remarks in support of SB 52. Senator Regan asked our researcher to define the word "employer" in the bill, and Ms. Orr said she would do this.

QUESTIONS ON SENATE BILL 52: Senator Hafferman wanted to know why the Department of Labor cannot handle this problem. Senator Regan said they were already charged with all discrimination cases.

Senator Goodover asked about the result of the Sunset review. Karen Townsend stated they were recommended for continuation. Senator Goodover then asked Ms. Townsend who Human Rights answered to. Ms. Townsend stated they answered to the Commission. They are an autonomous agency.

There were questions from the Committee regarding funding of the agency. Ms. Townsend stated that they are funded by both state and federal and they are funded somewhere around $180,000.

Mr. Scott Seacat, representing the Legislative Auditor, stated they felt it was best not to have the overlapping of the two agencies.

Senator Goodover asked how it would affect personnel in the Labor Department. Mr. David Hunter responded that he didn't think it would affect it, and added that the important thing is that transferring this authority to Human Rights Commission would put the employer in a double jeopardy situation. He felt there ought to be one set of consistent standards.

Senator Nelson wanted to know if we are getting our money's worth. Ms. Townsend stated that a small amount of money is spent on these cases, and they would not be adding any staff.

Chairman Nelson closed the hearing on SB 52.

SENATE BILL 64: Chairman Nelson introduced Senator Roger Elliott, sponsor of SB 64, who explained the bill to the Committee. This bill terminates total disability compensation benefits when a claimant is considered retired. This bill does not stop payments altogether except after 9 1/2 years.

PROPONENTS OF SENATE BILL 64: Mr. Laury Lewis, representing the Division of Workmen's Compensation, further explained SB 64 to the Committee. He stated that Workers Compensation was meant to provide benefits to those who have suffered in their earning capacity, and it should not become a pension program. It is not an anti-anything bill. The bill will not allow someone who is permanently disabled to receive benefits for the rest of his life.

Mr. George Wood, representing Montana Self Insurers Association, stated they support SB 64.

Mr. Keith Olson, representing Montana Logging Association, stated they support passage of SB 64. His printed testimony is attached to the minutes.

Mr. Robert Helding, representing Montana Wood Products Association, stated they support SB 64.

OPPONENTS OF SENATE BILL 64: Mr. Jerry Driscoll, representing AFL-CIO Laborers' Union Local 98, stated they oppose SB 64 because they feel it discriminates against older workers. Mr. Driscoll read a letter to the Committee from Mr. James W. Murry, Executive Secretary of Montana State AFL-CIO. This letter is attached to the minutes.

Mr. Tom Ryan, representing Montana Senior Citizens Association, stated that they oppose SB 64. His written testimony is attached.

Mr. Ed Sheehy, representing Montana Retired Federal Employees, stated they believe SB 64 is unfair legislation and discriminates against people no longer able to work.

Mr. Mike Meloy, representing the Montana Trial Lawyers Association, stated the employee gives up some rights, too. He gives up the right to be compensated for pain and suffering when he is injured on the job. The employer pays for the insurance benefit of Social Security.

Senator Elliott made closing statements in support of SB 64.

QUESTIONS: Senator Aklestad brought out the fact that this bill will not affect anyone injured before July 1, 1981, the effective date of the bill.

Mr. Bud Pillen from the State Compensation Insurance Fund, stated that compensation would not stop at age 65. He explained what the worker would be entitled to under Social Security and other benefits.

Chairman Nelson called the hearing on SB 64 closed.

DISPOSITION OF SENATE BILL 32: Senator Goodover moved that SB 32 DO PASS. On a Roll Call Vote, SB 32 passed by a 6-2 vote. This vote is attached to the minutes.

DISPOSITION OF SENATE BILL 60: No action taken at this time because an amendment is being prepared to clarify language in the bill.

DISPOSITION OF SENATE BILL 52: Senator Ryan moved that the amendments offered by Senator Regan Do Pass. The Committee voted unanimously that the amendments to SB 52 Do Pass. Senator Ryan moved that SENATE BILL 52 DO PASS AS AMENDED. On a Roll Call Vote, SENATE BILL 52 PASSED by a 6-2 vote. This Roll Call Vote is attached to the minutes.

DISPOSITION OF SENATE BILL 64: Senator Keating moved that SB 64 Do Pass. On a Roll Call Vote, SENATE BILL 64 PASSED by a 6-1 vote. Senator Hafferman chose to pass on this vote.

ADJOURN: There being no further business, the meeting adjourned at 2:25 p.m.

Harold C. Nelson

Senator Harold C. Nelson, Chairman

mln

STANDING COMMITTEE REPORT

January 13, 19 81

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration SENATE Bill No. 64

Respectfully report as follows: That SENATE Bill No. 64

DO PASS

Senator Harold Nelson Chairman.

STATE PUB. CO.
Helena, Mont.

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ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 1/13/81

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

MONTANA LOGGING ASSOCIATION

P.O. Box 1716, Kalispell, Montana 59901

January 13, 1981

Re: Senate Bill # 64

Mr. Chairman, members of the committee.

My name is Keith Olson, I am the Executive Director of the Montana Logging Association. The MLA represents independent logging contractors from throughout the state of Montana. The MLA strongly supports passage of SB 64.

Our concern with this legislation is two-fold. Firstly, should this legislation fail, we fear workers' compensation insurance will become what it was never intended to be; a pension plan. Secondly, the premium rate that would be charged for logging activity to fund this pension plan will cost jobs and earnings in the logging industry.

As we testified before this committee last week, workers' compensation insurance is the most significant indirect expense of the logging cost. Logging contractors in Montana pay $18.85 in premium for every $100 in wages they pay an employee. This is currently one-half the premium rate we were paying just five years ago. Gentlemen, the MLA is committed to lower that rate even further. We are so dedicated to this committment that we recently hired a full-time loss control officer to work with our members in an effort to increase safety awareness and reduce accidents in the logging industry. However, our success depends not only on our efforts in the woods, it depends upon the internal workings of the Division of Workers' Compensation.

As an association we are doing everything within our power to minimize the expense of workers' compensation coverage for logging activity. We sincerely believe SB 64 will further assist in the establishment of the lowest practical premium rate for the logging industry. Should we fail in this endeavor, the consequences will be far-reaching, for as the premium rate goes up, the competitive efficiency of the logging contractor goes down. Translated, this means our members can not only afford to hire fewer employee's, it also reduces the wages they can afford to pay them for their services.

In closing, the Montana Logging Association respectfully encourages this committee to vote a "do pass" recommendation for SB 64. Besides limiting workers' compensation benefits to the role for which they were originally intended, this legislation will help to stabilize logging costs. We contend the benefit's will stretch from Montana's loggers to the young families of this nation as they endeavor to purchase a home.

Thank you!

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

January 13, 1981

TO THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

Because of a conflict in hearings scheduled with the House Labor Committee and the Board of Labor Appeals hearings currently in session, the Montana State AFL-CIO is unable to be present to testify against Senate Bill 64. Please allow us to enter this letter into your record.

The Montana State AFL-CIO opposes SB 64 because it discriminates against older workers. People over 65 constitute a growing segment of our population. They also represent an economically disadvantaged segment of our society.

SB 64 would deny workers' compensation for wages lost to all workers who were drawing Social Security retirement benefits. The theory probably is that a retired person is no longer on the job market, and therefore deserves no compensation for wages lost. This is very far from the truth, however.

In reality, very many older persons work either by choice or by economic necessity. Why should the state of Montana discriminate against these citizens because of their age?

Social Security Disability benefits are based on a person's income. If the person goes back to work, he or she loses this disability benefit. The maximum benefit level currently is $653.80 per month or $7,845.60 per year. Most people draw far lower benefits than the maximum.

Under current Montana law, that Social Security Disability benefit is offset 50% by Workers' Compensation. That means that for each $2 received in Social Security Disability benefits, workers' compensation is reduced by $1.

At age 65, Social Security Disability benefits are automatically transformed into Social Security Retirement benefits, which are paid at exactly the same level. Under current Montana law, the offset by workers' comp is removed, so that more workers compensation is paid to the injured person. Since there is no increase for inflation built into our law, that comes as a lifesaver to many elderly people. But under Senate Bill 64, workers' comp payments would be cut off altogether.

Even more unfair is the effect of this bill on a worker who is over 65 years of age. Under present federal law, a person can earn up to $5,500 in outside wages without losing her or his Social Security Retirement benefits. After the initial $5,500, Social Security retirement is reduced $1 for each $2 earned. That means that a person can earn up to about $21,000 under certain conditions and still receive at least a few dollars in Social Security retirement benefits.

PRINTED ON UNION MADE PAPER

Under SB 64, a person who is 65 years old might be working at a $15,000 per year job and still drawing some Social Security. If that person is injured on the job, he or she is cheated out of workers' compensation benefits for lost wages, even though they are clearly losing wages.

We understand that the number of persons to whom this bill would apply is not large. The total amount of money involved is probably $2 million or less -- not a very large chunk when you consider the tax cut measures that are being considered. But for an elderly person, many of whom live in poverty anyway, to be injured and then denied workers' compensation is a cruel way to shave dollars off this fund. In many societies of the world, elderly people are honored and respected as the senior members of society. I hope we have not fallen so low in Montana that we discriminate against injured senior citizens, denying them the meager resources necessary to maintain their existence. The average Social Security retirement benefit is only $3,960 per year for an individual or $6,756 for a couple. The Montana State AFL-CIO does not believe that our injured workers should be condemned to such a poverty-stricken existence. An injured person frequently requires more to survive than a healthy person.

We ask you to defeat SB 64 and refuse to discriminate against senior citizens.

With best regards, I am

Sincerely yours,

Jim Murry

James W. Murry, Executive Secretary
Montana State AFL-CIO

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date Jan 13, 1981 Senate Bill No. 64 Time 2:25

NAME	YES	NO
GARY C. AKLESTAD, VICE-CHAIRMAN	✓	
MIKE ANDERSON	✓	
PAT M. GOODOVER	✓	
WILLIAM HAFFERMAN	passed	
THOMAS F. KEATING	✓	
BILL NORMAN	✓	
PATRICK L. RYAN		✓
HAROLD C. NELSON, CHAIRMAN	✓	

Marjorie L. Nichols
Secretary

Harold C. Nelson
Chairman

Motion: Motion by Senator Keating that SB 64 Do Pass.

(include enough information on motion--put with yellow copy of committee report.)

NAME: David Hunter DATE: 1/13/80 ~~58 64, 52~~

ADDRESS: Dept of Labor & Industry

PHONE: 449 - 2621

REPRESENTING WHOM? Dept of Labor & Industry

APPEARING ON WHICH PROPOSAL: 58 52, 64

DO YOU: SUPPORT? ✓ Both AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Larry Lewis DATE: ~~2~~ 1-13-01

ADDRESS: 815 Front ST

PHONE: 444-2007

REPRESENTING WHOM? D.J Work Comp

APPEARING ON WHICH PROPOSAL: SB 60

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: George Wood DATE: 1/13/81

ADDRESS: 409 Agnes - Missoula, Mt 59801

PHONE: 543-7195

REPRESENTING WHOM? Montana Self Insurers Assn.

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: KEITH L. OLSON DATE: 13 Jan. 81

ADDRESS: P.O. Box 1716, Kal. 59901

PHONE: 755-3185

REPRESENTING WHOM? Montana Logging Assn.

APPEARING ON WHICH PROPOSAL: SB #64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: will submit written testimony!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: BOB HELDING DATE: 1-13-81

ADDRESS: ~~CET~~ 316 SAVINGS CENTER BLDG - MISSOULA, MT

PHONE: 728-3650

REPRESENTING WHOM? MONTANA WOOD PRODUCTS ASSOC.

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Jerry Omsted DATE: 1-1

ADDRESS: 345 Calhoun Lane Building 40 N Benton #4 Helena

PHONE: 259-1655 442-3527

REPRESENTING WHOM? AFL-CIO Labor's Union Local 98

APPEARING ON WHICH PROPOSAL: SB64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: RYAN, TOM DATE: 1-13-81

ADDRESS: BOX 1243 - HELENA MONT.

PHONE: 442-8999

REPRESENTING WHOM? MONT. SENIOR CITIZENS ASSN

APPEARING ON WHICH PROPOSAL: SB-64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: This should be left up to the individual. The person involved is the FIRST CONSIDERATION His or her STANDARD OF living should be considered. The person involved has in MANY cases undergone MANY involved EXAMINATIONS, time & money consumed have been AT A SACRIFICE.

MANY DOCTORS do not care for the Federal paperwork

To me the protection of the fund is securing the dignity of the individual.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: ED SHEEHY DATE: JAN 13-81

ADDRESS: 1731 5TH AVE HELENA

PHONE: 443-5782

REPRESENTING WHOM? NAT RETIRED FEDERAL EMPLOYEES

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: WE BELIEVE THIS IS UNFAIR LEGISLATION AND DISCRIMINATES AGAINST PEOPLE NO LONGER ABLE TO WORK.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Mike Macy DATE: 1/13

ADDRESS: Securities DOC Helena

PHONE: 4429430

REPRESENTING WHOM? Montana Trial Lawyers Assn.

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT?_____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Bud Pullen DATE: 9-13-81

ADDRESS: 815 Front St. Helena

PHONE: 449-7047

REPRESENTING WHOM? State Conservation Insurance Fund

APPEARING ON WHICH PROPOSAL: SB-64

DO YOU: SUPPORT? Yes AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 29, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on January 29, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 64: Chairman Nelson introduced Senator Roger Elliott, sponsor of SB 64, to the Committee, and he explained the bill to the Committee. He stated that the bill is by request of the Workers' Compensation Advisory Council. The bill also explains the differences between full and partial disability.

PROPONENTS OF SENATE BILL 64: Mr. Laury Lewis, representing the Division of Workmen's Compensation, stated they were concerned whether temporary total disability would be cut out of the bill. There was also some confusion about the amendment that was submitted earlier. However, this amendment was not adopted by the Committee. Mr. Lewis gave the Committee a handout explaining the Division's reasons for supporting the proposed bill. This handout is attached.

Mr. Lewis told the Committee that if SB 64 passes, the injured worker will be getting as much as or more than he was making at the time he was injured. He also stated that it must be decided what the Workers' Compensation Act is intended to do--it is a question the legislature has to address.

Mr. George Wood, representing Montana Self-Insurers Association, stated they are in support of SB 64. Mr. Wood's printed testimony is attached to the minutes.

Mr. Keith Olson, representing the Montana Logging Association, stated they support SB 64.

Mr. Gregg Groepper, representing the Department of Labor and Industry, stated they support SB 64.

OPPONENTS OF SENATE BILL 64: Mr. Tom Ryan, representing Montana Senior Citizens Association, stated they are in opposition to Senate Bill 64.

Mr. James Jensen, representing Low Income Senior Citizens' Advocate of Montana, wondered how the state was going to save money if there was no change. Mr. Lewis stated there is no savings--it is not an insurance company bill.

Mr. Ed Sheehy, representing himself, stated that he is in opposition to SB 64, and would fight any attempt to undercut the social security system.

Mr. Jerry Driscoll, representing Laborers' Union Local 98, stated they are opposed to SB 64.

Mr. James Murry, representing Montana State AFL-CIO, stated they have a problem with the fact that people will retire at age 65.

Chairman Nelson asked Senator Elliott to close on Senate Bill 64. Senator Elliott stated there was no infringement to the Social Security Fund. He stated we have to consider what the workmen's compensation is all about. He would be willing to offer amendments to clarify language in the bill if the Committee feels this is necessary.

QUESTIONS ON SENATE BILL 64: Senator Ryan asked about an earlier amendment to SB 64. The Committee stated that this amendment had not been adopted.

Senator Goodover asked what workers' compensation should be? Mr. Lewis stated that we should have a strong workers' compensation program in Montana and workers should be compensated for any injury they might sustain. He further stated that workers' compensation is meant to replace the lost wages of an injured worker--it is not meant to be a pension program.

Senator Goodover asked if SB 64 is passed what it would do. Mr. Lewis stated that if you are working at age 67, you can still get disability benefits if you are not retired on full social security.

Senator Hafferman wondered about an injury that might occur about a month before retirement.

Senator Elliott stated that you would get a settlement, and part of the settlement would be a choice--a lump sum or a weekly amount.

There was further discussion regarding the age of retirement and whether it is an artificial cutoff point.

Senator Anderson mentioned that there are instances when one is forced to receive social security retirement and times the recipient under the bill would have no choice but to go off total disability.

Senator Ryan asked where the money was coming from. Senator Elliott stated that the reduction in cost would be to the taxpayer.

Senator Ryan asked how this would affect those not covered by social security. Senator Elliott stated that it would not affect them at all. Senator Anderson stated that those not being covered by social security probably have their own retirement plan.

Mr. Lewis stated that the law applies only to social security.

Senator Elliott stated that the point is that when you elect to take social security retirement, the bill kicks into effect.

Chairman Nelson called the hearing closed on Senate Bill 64.

CONSIDERATION OF HOUSE BILL 49: Chairman Nelson introduced Representative Gould, sponsor of HB 49, to the Committee, and Rep. Gould explained the bill to the Committee. House Bill 49 is an act to limit the experience computation period of employers to 3 years. The advantage is that employers who have one bad year are not jeopardized forever.

PROPONENTS OF HOUSE BILL 49: Mr. Fred Barrett, representing the Employment Security Division of the Labor Department, stated that they are in support of HB 49. They feel it is good remedial legislation.

Mr. F. H. Boles, representing Montana Chamber of Commerce, stated they support HB 49. He also stated that the Montana Wood Products Association support the bill.

Mr. Ed Nurse, representing Small Business, stated they are in support of the bill.

Mr. Dave Goss, representing Billings Area Chamber of Commerce, stated they also support HB 49. They feel it reflects more accurately the trends of what is going on in the economic sector.

Mr. Greg Groepper, representing the Labor Department, stated they strongly support HB 49.

There were no opponents to HB 49 present at the hearing.

QUESTIONS ON HOUSE BILL 49: Senator Ryan asked about what historically has been the length of a computation period. Mr. Barrett stated it would be based on the experience rating of employers on the most recent three-year period rather than from a set period extending back to 1976. They would rather have experience rating available--better data available immediately, and it would not create any additional bookeeping.

Representative Gould made closing remarks in support of HB 49, and asked Senator Anderson if he would carry this bill on the floor if the Committee Concurred on it. Senator Anderson agreed to do this.

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date Jan. 29, 1981

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

NAME: LARRY LEWIS DATE: 1-29-81

ADDRESS: 815 FRONT ST.

PHONE: 449-2047

REPRESENTING WHOM? WORKERS COMP

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? V AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MEMORANDUM BY THE WORKERS' COMPENSATION DIVISION REGARDING SENATE BILL NO. 64, AN ACT TO PROVIDE THAT TOTAL DISABILITY COMPENSATION BENEFITS WILL TERMINATE WHEN A CLAIMANT RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS OR DISABILITY SOCIAL SECURITY BENEFITS ARE CONVERTED TO RETIREMENT BENEFITS AND THE CLAIMANT IS DEEMED RETIRED.

The Workers' Compensation Division wishes to explain its reasons for supporting the proposed bill.

The Workers' Compensation Act currently provides for the payment of total disability benefits for the duration of the worker's total permanent disability. This amendment would provide for the termination of total disability workers' compensation benefits in cases where the claimant is deemed to be retired and no longer in the open labor market.

Payment of disability benefits to a worker who has elected retirement is not consistent with the underlying philosophy and intent of the Montana Workers' Compensation Act. Workers' compensation commentators are in universal agreement that the distinctive feature of this compensation system, by contrast with tort liability, is that its awards are made not for physical injury as such, but for disability produced by such injury. The measure of that disability is usually in the difference between the claimant's earning ability before the injury and his earning ability after the injury. The function of the Workers' Compensation Act is well understood; it is to provide support for industrially disabled workers during periods of actual disability and for their dependents in the event of occupationally related death, together with hospital, medical and funeral expenses. This being the case, loss of earnings or diminution of earning capacity are impossible to assess when normal retirement age has been reached, in that it becomes impossible to compare current earning ability with previous earning ability.

The proposed legislation will eliminate payment of total disability benefits after date of retirement. Temporary total and partial disability benefits would remain to properly compensate a worker for temporary disability and for physical impairment that may exist.

It should also be noted that the Montana Supreme Court has suggested in at least one case that the intent of the legislature should be clarified in reference to payment of compensation when loss of earnings is not a factor when a worker has removed himself from the labor market through retirement.

WBD/nmb

gross weekly earnings = $150.00 ..... (a) *
weekly permanent total rate = $100 = PT rate ..... (b)
average estimated S.S. benefits age 62 = $264.00 monthly
average estimated S.S. benefits age 65 = $330.00 monthly

Determination S.S. offset @ $264.00 monthly

	x 12 months
	$3,168.00
	÷52.14 weeks
	60.76 /week from SS..... (c)
	÷50% offset
	-30.38 week SS offset..... (d)
	+100.00 PT rate
	69.62 = PT offset rate ..... (e)

vs

100.00 weekly partial rate .... (f)

age 65 gross weekly earning $150.00

PT	100.00 weekly
SS Offset	37.97 weekly
PT offset rate	$ 62.03 weekly

vs

Partial $100.00 weekly

Effects of Senate Bill 64

Retirement at Age 62 - Social Security Discounted by 20%

Gross Earnings (a)	Permanent Total Rate (b)	Partial Rate (f)	Social Security Benefits (c)	Social Security Offset Rate (d)	Permanent Total Offset Rate (e)	Amt. Payable at Retirement/SS Benefits & PT Offset Rate (c+e)	Amt. Payable at Retirement/SS Benefits without offset applied (b+c)	Amt. Payable if SB 64 Passed (c+f)
150.00	$100.00	$100.00	$ 60.76	$30.38	$69.62	$130.38	$160.76	$160.76
175.00	116.67	109.50	70.43	35.21	81.46	151.89	187.10	179.93
200.00	133.34	109.50	80.09	40.05	93.29	174.19	214.24	190.40
250.00	166.68	109.50	89.76	44.88	121.80	211.56	256.44	199.26
300.00	200.01	109.50	99.42	49.71	150.30	249.72	299.43	208.92
328.50	219.00	109.50	119.68	59.84	159.16	278.84	333.68	229.18

* Letters a f correspond to data on page 1

** Above amounts are on a weekly basis

BEST COPY
AVAILABLE

Effects of Senate Bill 64

Retirement at Age 65

Gross Earnings (a)	Permanent Total Rate (b)	Partial Rate (f)	Social Security Benefits (c)	S.S. + PT with offset prior to Retirement at Age 65 (c+e)	S.S. + PT (b+c)	Amount Payable if SB 64 passed (f+c)
$150.00	$100.00	$100.00	$ 75.95	$130.38	$175.95	$175.95
175.00	116.67	109.50	90.22	151.89	206.89	199.72
200.00	133.34	109.50	104.49	174.19	237.83	213.99
250.00	166.68	109.50	118.76	211.56	285.44	228.26
300.00	200.01	109.50	133.03	249.72	333.04	242.53
328.50	219.00 (max. allowed)	109.50 (max. allowed)	149.60	278.84	368.60	259.10

NAME: Sheryl Wood DATE: 1/21/81

ADDRESS: Box 2899 Missoula, Mt 5980

PHONE: 543-7195

REPRESENTING WHOM? Montana Self Employed Women

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE BILL 64

THE PRESENT WORKERS' COMPENSATION ACT PROVIDES FOR PAYMENT OF COMPENSATION BENEFITS TO A TOTALLY DISABLED WORKER AT A MAXIMUM COMPENSATION RATE OF $219.00 WEEKLY OR $11,419.32 ANNUALLY. THE BENEFITS ARE PAID FOR THE LENGTH OF THE DISABILITY WHICH COULD BE FOR LIFETIME.

THE INJURED WORKER MAY ALSO BE ENTITLED TO SOCIAL SECURITY DISABILITY BENEFITS. IF SO, THE MONTANA WORKERS' COMPENSATION BENEFITS ARE REDUCED BY 1/2 OF THE SOCIAL SECURITY DISABILITY BENEFITS WHICH HE RECEIVES AT THE TIME OF HIS ORIGINAL ENTITLEMENT AND COST OF LIVING INCREASES GRANTED BY THE SOCIAL SECURITY ACT ARE NOT CONSIDERED.

ASSUME A TOTALLY DISABLED WORKER WHO IS ENTITLED TO THE MAXIMUM WORKERS' COMPENSATION BENEFIT OF $219.00 WEEKLY AND THE MAXIMUM SOCIAL SECURITY DISABILITY BENEFIT OF $534.70. THE BENEFITS PAYABLE WOULD BE:

SOCIAL SECURITY		$123.05 WEEKLY
OFFSET (1/2)	$61.52	
WORKERS' COMPENSATION ($219.00 - $61.52)		$157.48 WEEKLY
TOTAL BENEFITS (TAX FREE)		$280.53 WEEKLY

THIS IS ANNUAL BENEFITS OF $14,627.68

WHEN THE TOTALLY DISABLED WORKERS REACHES AGE 65, THE SOCIAL SECURITY BENEFITS ARE CHANGED TO RETIREMENT BENEFITS. THERE IS NO CHANGE IN THE AMOUNT OF BENEFITS JUST A CHANGE IN CLASSIFICATION. THE MONTANA WORKERS' COMPENSATION ACT DOES NOT PROVIDE FOR A REDUCTION IN WORKERS' COMPENSATION BENEFITS WHEN SOCIAL SECURITY RETIREMENT BENEFITS ARE PAID.

ASSUME THE SAME INJURED WORKER REACHING THE AGE OF 65. WE WILL USE THE SAME SOCIAL SECURITY BENEFITS EVEN THOUGH THEY WOULD BE INCREASED BY THE COST OF LIVING INCREASES GRANTED UNDER THE SOCIAL SECURITY ACT. THE INCREASES VARY DEPENDING ON THE COST OF LIVING INDEX. THE LAST INCREASE WAS ABOUT 13%.

SOCIAL SECURITY BENEFITS	$123.05 WEEKLY
WORKERS' COMPENSATION BENEFITS	$219.00 WEEKLY
TOTAL BENEFITS (TAX FREE)	$342.05 WEEKLY

THIS IS AN ANNUAL BENEFIT OF $17,835.51 OR AN INCREASE IN BENEFITS OF $3,207.83 SIMPLY FOR REACHING AGE 65. INCIDENTALLY, THE INJURED WORKER NEED EARN ONLY $328.50 WEEKLY OR $17,128.98 ANNUALLY TO EARN THE MAXIMUM WORKERS' COMPENSATION WEEKLY BENEFIT.

THE UNINJURED FELLOW EMPLOYEE OF THE INJURED WORKER WHO RETIRES AT AGE 65 WOULD RECEIVE A MAXIMUM OF $534.70 MONTHLY OR $6,416.40 ANNUALLY IN SOCIAL SECURITY BENEFITS.

SENATE BILL 64 PROVIDES FOR THE TERMINATION OF TOTAL DISABILITY BENEFITS UNDER THE WORKERS' COMPENSATION ACT WHEN THE INJURED WORKER RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS. IT DOES PROVIDE THAT THE INJURED WORKER COULD RECEIVE BENEFITS FOR PERMANENT PARTIAL DISABILITY, WHICH ARE FOR A MAXIMUM OF 500 WEEKS OR 9.6 YEARS.

IT DOES NOT PROVIDE FOR TERMINATION OF WORKERS' COMPENSATION BENEFITS FOR TOTAL DISABILITY FOR AN INJURED WORKER WHO IS NOT RECEIVING RETIREMENT BENEFITS. THESE WORKERS WOULD RECEIVE THE SAME BENEFITS FOR TOTAL DISABILITY AS AN INJURED WORKER WHO HAS NOT REACHED AGE 65.

ASSUME THAT SENATE BILL 64 BECOMES LAW. FURTHER ASSUME THAT THE INJURED WORKER PREVIOUSLY MENTIONED REACHES AGE 65. THE BENEFITS, AGAIN ASSUMING NO ANNUAL INCREASE IN SOCIAL SECURITY BENEFITS, WOULD BE AS FOLLOWS:

SOCIAL SECURITY BENEFITS (534.70 MONTHLY)	$123.05 WEEKLY
WORKERS'COMPENSATION BENEFITS (MAXIMUM-PERMANENT PARTIAL)	$109.50 WEEKLY
MAXIMUM BENEFITS (TAX FREE)	$232.55 WEEKLY

THIS IS AN ANNUAL BENEFIT PAYMENT OF $12,125.85 WHICH IS 71% OF THE TAXABLE EARNINGS NECESSARY TO DRAW THE MAXIMUM WORKERS' COMPENSATION BENEFIT. THE

BENEFITS WOULD APPROXIMATE THE EARNINGS AFTER TAXES.

I SUBMIT THAT SENATE BILL 64 WOULD CREATE NO UNDUE HARDSHIP.

IF A WORKER IS RETIRED AND RECEIVING SOCIAL SECURITY RETIREMENT BENEFITS, INCOME MUST BE LIMITED TO $5,500.00 ANNUALLY. IF THIS WORKER IS INJURED, HIS MAXIMUM WORKERS' COMPENSATION BENEFIT WOULD BE $68.32 WEEKLY. (EARNING $5,500.00 ÷ 52.143 WEEKS IN A YEAR X 66 2/3%.)

NAME: KEITH OLSON DATE: 29 Jan. 81

ADDRESS: Box 1716 Kalispell 59901

PHONE: 752-2139

REPRESENTING WHOM? Montana Logging Assn.

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Gregg Groepper DATE: 1/29/81

ADDRESS: 1

PHONE: 449-3799

REPRESENTING WHOM? LABOR AND INDUSTRY

APPEARING ON WHICH PROPOSAL: SB-64 HB 49

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Bryan Jones DATE: 1/29/87

ADDRESS: Box 42443

PHONE: 442-8999

REPRESENTING WHOM? Montana Senior Citizens Assn

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? _____ AMEND? L OPPOSE? _____

COMMENTS:

My testimony at a previous session was in opposition to this bill - due to the situation in which Senior Citizens find themselves I would hope to make an effective date of June 30, 1991

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Ed Sheehy DATE: 1-29-81

ADDRESS: 1731 5th Ave Helena, Mt

PHONE: 443 5782

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SB64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: I am concerned about a General Accounting Recommendation to stop the use of Social Security and its offset provisions on following states to offset disability payments through Social Security. Two states have been identified as costing the Social Security Trust funds by making changes such as Montana provides

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Jerry Driscoll DATE: 1-29-81

ADDRESS: 4344 Stone St Billings

PHONE: 259-1655

REPRESENTING WHOM? Laborers Union Local 98

APPEARING ON WHICH PROPOSAL: S.B. 64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: James W. Murry DATE: 1-29-81

ADDRESS: P.O. Box 1176

PHONE:

REPRESENTING WHOM? Mont. State AFL-CIO

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Pat Melby DATE: 1-29-81

ADDRESS: P.O. Box 1144

PHONE: 442-7450

REPRESENTING WHOM? Alliance of American Indians

APPEARING ON WHICH PROPOSAL: S.B. 64

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE January 29, 1981

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
[illegible] Garcia	Mt. Nurses Ass.	64		
[illegible] Carlson	Mt. Nurses' Ass	64		
Eileen Robbins	Montana Nurses Assoc.	64		
Susan Kirchmyer	~~4315~~ MNA	64		
Judith Weigand	Montana Nurses Assoc	64		
[illegible] Finney	MNA	64		
Leslie Upam	MNA	64.		
Gloria Paddock	MNA	64		

STATUS SHEET

STATE ADMINISTRATION COMMITTEE

47 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 779	TO PROVIDE FOR TEMPORARY COMMISSION TO REGULATE BALLOT ISSUE CAMPAIGN PRACTICES.	2/16	BARDANOUVE	2/19/81	TABLED	2/23
HB 786	IMPOSE A HIRING FREEZE ON STATE GOVERNMENT AGENCIES FROM JANUARY 1, 1982 THRU DE. 31, 1982....	2/16	O'HARA	2/20	DO PASS AS AMENDED	2/20
HB 788	REQUIRE STATE ELECTION BOARD TO ALLOW CERTAIN APPLICANTS TO TAKE LICENSE EXAMINATIONS.	2/16	MENAHAN	2/20	DO PASS AS AMENDED	2/20
HB 789	ALLOW STATE LAW LIBRARY OF MONTANA TO OCCUPY QUARTERS IN BUILDINGS OTHER THAN THE STATE CAPITOL.	2/16	YARDLEY	2/20	DO PASS CONSENT CAL.	2/20
HB 792	PROVIDE METHOD FOR RELIEVING SEVERE ECONOMIC IMPACTS TO COMMUNITIES RESULTING FROM MAJOR INDUSTRIAL PLANT CLOSURERS....	2/16	MENAHAN	2/20	DO PASS	2/20
SB 64	PROVIDE TOTAL DISABILITY COMP. BENEFITS WILL TERM. WHEN CLAIMANT RECEIVES RETIREMENT SOC. SEC. BENE. OR RET. BENEFITS.....	2/16	ELLIOTT	3/10/81	BE CONCURRED IN	3/19/81

Form CS-32
1-79

STATE ADMINISTRATION
MARCH 10, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 8:00 a.m. on March 10, 1981, with Chairman Jerry Feda Presiding. All members were present except Representative Kropp who was excused.

Chairman Feda opened the meeting to a hearing on SB 184.

SENATE BILL 184-SPONSOR, Senator Hazelbaker, introduced this bill at the request of the Public Employees' Retirement Board. This bill revises the provisions relating to the Sheriffs' Retirement System including the payment of early and involuntary retirement allowances and death benefits.

PROPONENTS

JOHN SCULLY, representing the Sheriffs' and Peace Officers' Assoc.

LARRY NACHTSHEIM, P.E.R.D., appeared in support of this legislation. A copy of his prepared testimony is attached and is EXHIBIT 1 of the minutes.

JOHN ONSTAD, Montana Sheriffs' Assoc., arose and stated his support of this bill.

OPPONENTS

There were no opponents present.

QUESTIONS BY THE COMMITTEE:

Sales: The fiscal note indicates a slight cost.

Nachtsheim: The cost will be minimal.

Briggs: Will this be retroactive?

Nachtsheim: I do not believe so. This is addressed in section 4.

Senator Hazelbaker closed the hearing on Senate Bill 184.

SENATE BILL 64-SPONSOR, Senator Elliott, introduced this bill which prohibits a claimant from receiving total disability compensation benefits when he is receiving retirement social security benefits or when his disability social security benefits are converted to retirement benefits. It also states that the liability of the insurer for payment of disability compensation benefits ends when the claimant is considered retired. Senator Elliott said that the original intent of the workers compensation benefits was to replace earnings lost due to disability on the job not to be a retirement system. He gave an illustration of how the system would work. (Blackboard illustration) The information provided in this illustration was very similar to the testimony submitted by Mr. Loury Lewis. See exhibit 2.

PROPONENTS

DAVID HUNTER, Department of Labor & Industry, appeared in support of the bill and stated two points. First, a person applying for retirement disability has chosen not to be in the job market therefore, should not be entitled to the same benefits as a person in the job market. Second, this bill would keep workmen's compensation from becoming a retirement system.

LOURY LEWIS, Workmen's Compensation Division, submitted a memorandum by the Workers" Compensation Division regarding SB 64 expressing its reasons for supporting the proposed bill. A copy of this is attached and is EXHIBIT 2 of the minutes.

GEORGE WOOD, Executive Secretary of the Montana Self-Insurers Assoc., arose in support of SB 64. A copy of his prepared testimony is attached and is EXHIBIT 3 of the minutes.

ROBERT HELDING, Montana Wood Products Assoc., stated support of the bill by the association and also stated support of the bill for the Montana Chamber at the request of Mr. Boles.

KEITH OLSEN, Montana Logging Assoc., commented that if this bill does not pass Workers' Compensation will become a retirement program, rates will go up and this will result in a loss of jobs for many Montanan's. He read a prepared statement to the committee. EXHIBIT 11

SB 64 (cont.)

LARRY HUSS, representing the Montana Contractors Assoc., stated support of this bill.

PAUL KELLER, American Insurance Assoc., arose and stated support of this bill.

CLYDE SMITH, representing the logging contractors, testified in support of SB 64.

BILL KURKPATRICK, Champion International, Missoula, concurred with other proponents of this bill.

IRVIN E. DELLINGER, Executive Secretary, Montana Building Material Dealers' Assoc., arose in support of SB 64. A copy of his statement is attached and is EXHIBIT 4 of the minutes.

BUD PILLEN, Workers' Compensation, stated support of SB 64.

BILL HANLEY, Hanley Timber Company, arose in support of this legislation.

OPPONENTS-

JERRY DRISCOLL, from Laborers Local 98, Billings, testified in opposition to SB 64. A copy of his testimony is attached and is EXHIBIT 5 of the minutes.

JAMES MURRAY, Montana AFL-CIO, stated that he was the member of the governor's committee on Workers' Compensation, that vetoed this bill. The reason I vetoed this bill, he stated, is because it is such a bad bill. SB 64 will deny benefits to members who are drawing social security retirement benefits if those persons were totally disabled. Under current Montana law, he stated, the social security disability benefits are offset by 50% by workers' compensation. That means that for every $2 received from social security disability benefits, workers' compensation is reduced by $1. Under the current system, he stated, a retiree is not going to get rich especially when the person has to provide for medical care to compensate his disability. The number of people in Montana who are currently drawing both permanant disability from workers' compensation and also social security retirement benefits is about 85. "Why should we pick on this small group of totally disabled people. We should be helping them."

SB 64 (cont.)

TOM RYAN, Montana Senior Citizens' Assoc., stated that this bill is supported by people who work for the state who are suppose to be serving us and by the people from the industry where we were injured.

MIKE MELOY, Montana Trial Law Assoc., stated that the whole workers' compensation system is a "trade off" system set up by an employer and the employee to eliminate fault and provide a means of compensating the employee for injuries received on the job. The wage received under compensation benefits is "fixed" at 60% of the wage the person received not to exceed an average hourly rate of about $1.90 an hour. The benefits that this bill addresses are very low. He stated that the opponents would have the committee believe that there is another benefit available that starts replacing the total disability benefit when a person starts receiving retirement disability but that is not what the bill says. The bill says that when the person is retired and starts receiving social security retirement benefits the liability of the insurer is ended for the payment of such compensation benefits.

LINDA ANDERSON, representing Senior Advocates, stated that this bill is based on the assumption that most people retire at the age of 65. In this day many people cannot afford to retire at that age. 99% of the workers' compensation cases are settled in a lump sum settlement. What this bill does is reduce the amount of time a person is able to barter for lost wages. We are concerned about the person from the ages of about 55 to 60 who is injured on the job and has to negotiate for wages until he reaches the age of 65. We find this very unfair to the population of that age group in Montana.

QUESTIONS BY THE COMMITTEE:

Sales: Is there anything retroactive about this bill that would affect those 85 people who are currently covered by these benefits?

Lewis: No there would not be. I believe they would still receive the same benefits as they do now.

SB 64 (cont.)

Pistoria: Is the governor's office behind this bill.

Hunter: The understanding is that if they have any objections they would notify me. My assumption is that the governor will sign this bill if it gets to his desk.

Following further discussion by the committee, Senator Elliott closed the hearing on SB 64. He stated that this bill is an attempt to maintain the integrity of the workers' compensation law.

SENATE BILL 135-SPONSOR, Senator Regan, introduced this bill which revises the provision permitting a member of the Teachers' Retirement System to purchase service credits for employment while on leave. To qualify this leave time as creditable service, a teacher must contribute an amount equal to the combined employer and employee contributions plus interest for each year of service. If a member is on leave for two years or less, the compensation used to compute the required contribution is the annual compensation received by the member immediately before taking leave. If a member is on leave for over two years, the compensation used for computation is the annual compensation received during his first full year's teaching salary after his return from leave.

OPPONENTS

BOB JOHNSON, Teachers' Retirement System, arose in support of this bill. A copy of his prepared statement is attached and is EXHIBIT 6 of the minutes.

QUESTIONS BY THE COMMITTEE:

Hanson: Mr. Johnson, are you suggesting that this bill would leave it wide open for teachers to try and buy back military service.

Johnson: Yes

McBride: In how many cases has someone taken time off for military service?

Johnson: Not very many. Most military service is put in before their teaching starts.

McBride: Then this is not a valid argument.

EXHIBIT 2

MEMORANDUM BY THE WORKERS' COMPENSATION DIVISION REGARDING SENATE BILL NO. 64, AN ACT TO PROVIDE THAT TOTAL DISABILITY COMPENSATION BENEFITS WILL TERMINATE WHEN A CLAIMANT RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS OR DISABILITY SOCIAL SECURITY BENEFITS ARE CONVERTED TO RETIREMENT BENEFITS AND THE CLAIMANT IS DEEMED RETIRED.

The Workers' Compensation Division wishes to explain its reasons for supporting the proposed bill.

The Workers' Compensation Act currently provides for the payment of total disability benefits for the duration of the worker's total permanent disability. This amendment would provide for the termination of total disability workers' compensation benefits in cases where the claimant is deemed to be retired and no longer in the open labor market.

Payment of disability benefits to a worker who has elected retirement is not consistent with the underlying philosophy and intent of the Montana Workers' Compensation Act. Workers' compensation commentators are in universal agreement that the distinctive feature of this compensation system, by contrast with tort liability, is that its awards are made not for physical injury as such, but for disability produced by such injury. The measure of that disability is usually in the difference between the claimant's earning ability before the injury and his earning ability after the injury. The function of the Workers' Compensation Act is well understood; it is to provide support for industrially disabled workers during periods of actual disability and for their dependents in the event of occupationally related death, together with hospital, medical and funeral expenses. This being the case, loss of earnings or diminution of earning capacity are impossible to assess when normal retirement age has been reached, in that it becomes impossible to compare current earning ability with previous earning ability.

The proposed legislation will eliminate payment of total disability benefits after date of retirement. Temporary total and partial disability benefits would remain to properly compensate a worker for temporary disability and for physical impairment that may exist.

It should also be noted that the Montana Supreme Court has suggested in at least one case that the intent of the legislature should be clarified in reference to payment of compensation when loss of earnings is not a factor when a worker has removed himself from the labor market through retirement.

WBD/nmb

gross weekly earnings = $150.00 ..... (a) *
weekly permanent total rate = $100 = PT rate ..... (b)
average estimated S.S. benefits age 62 = $264.00 monthly
average estimated S.S. benefits age 65 = $330.00 monthly

Determination S.S. offset @ $264.00 monthly
x 12 months
$3,168.00
÷52.14 weeks
60.76 /week from SS..... (c)
÷50% offset
-30.38 week SS offset..... (d)
+100.00 PT rate
69.62 = PT offset rate..... (e)

vs

100.00 weekly partial rate .... (f)

age 65 gross weekly earning $150.00

PT	100.00 weekly
SS Offset	37.97 weekly
PT offset rate	$ 62.03 weekly

vs

Partial $100.00 weekly

Effects of Senate Bill 64

Retirement at Age 65

Gross Earnings	Permanent Total Rate	Partial Rate	Social Security Benefits	S.S. + PT with offset prior to Retirement at Age 65	S.S. + PT	Amount Payable if SB 64 passed
(a)	(b)	(f)	(c)	(c+e)	(b+c)	(f+c)
$150.00	$100.00	$100.00	$ 75.95	$130.38	$175.95	$175.95
175.00	116.67	109.50	90.22	151.89	206.89	199.72
200.00	133.34	109.50	104.49	174.19	237.83	213.99
250.00	166.68	109.50	118.76	211.56	285.44	228.26
300.00	200.01	109.50	133.03	249.72	333.04	242.53
328.50	219.00 (max. allowed)	109.50 (max. allowed)	149.60	278.84	368.60	259.10

Effects of Senate Bill 64

Retirement at Age 62 - Social Security Discounted by 20%

Gross Earnings (a)	Permanent Total Rate (b)	Partial Rate (f)	Social Security Benefits (c)	Social Security Offset Rate (d)	Permanent Total Offset Rate (e)	Amt. Payable at Retirement/SS Benefits & PT Offset Rate (c+e)	Amt. Payable at Retirement/SS Benefits without offset applied (b+c)	Amt. Payab if SB 64 Passed (c+f)
$150.0(	$100.00	$100.00	$ 60.76	$30.38	$69.62	$130.38	$160.76	$160.76
175.0(	116.67	109.50	70.43	35.21	81.46	151.89	187.10	179.93
200.00	133.34	109.50	80.09	40.05	93.29	174.19	214.24	190.40
250.00	166.68	109.50	89.76	44.88	121.80	211.56	256.44	199.26
300.00	200.01	109.50	99.42	49.71	150.30	249.72	299.43	208.92
328.50	219.00	109.50	119.68	59.84	159.16	278.84	338.68	229.18

* Letters a f correspond to data on page 1

** Above amounts are on a weekly basis

(3)

EXHIBIT 3

GEORGE WOOD
Executive Secretary

MONTANA SELF-INSURERS ASSOCIATION

Box 2899
MISSOULA, MONTANA 59806
(406) 543-7195

SENATE BILL 64

MY NAME IS GEORGE WOOD AND I AM EXECUTIVE SECRETARY OF THE MONTANA SELF-INSURERS ASSOCIATION. I RISE IN SUPPORT OF SENATE BILL 64.

THE PRESENT WORKERS' COMPENSATION ACT PROVIDES FOR PAYMENT OF COMPENSATION BENEFITS TO A TOTALLY DISABLED WORKER AT A MAXIMUM WEEKLY COMPENSATION RATE OF $219.00 OR $11,419.32. THE BENEFITS ARE PAID FOR THE LENGTH OF THE DISABILITY, WHICH COULD BE LIFETIME BENEFITS.

THE INJURED WORKER MAY ALSO BE ENTITLED TO SOCIAL SECURITY DISABILITY BENEFITS. IF SO, THE MONTANA WORKERS' COMPENSATION BENEFITS ARE REDUCED BY ONE-HALF OF THE SOCIAL SECURITY DISABILITY BENEFITS WHICH HE RECEIVES AT THE TIME OF HIS ORIGINAL ENTITLEMENT AND COST OF LIVING INCREASES, GRANTED BY THE SOCIAL SECURITY ACT, ARE NOT CONSIDERED. THAT IS, THE OFFSET IS NOT TAKEN ON COST OF LIVING INCREASES.

THE MAXIMUM SOCIAL SECURITY DISABILITY BENEFIT, AT THE PRESENT TIME, IS APPROXIMATELY 653.00 $600.00 A MONTH FOR THE INJURED WORKER AND ONE-HALF OF THAT OR $300.00 FOR THE SPOUSE.

ASSUME A TOTALLY DISABLED WORKER WHO IS ENTITLED TO THE MAXIMUM WORKERS' COMPENSATION BENEFIT OF $219.00 WEEKLY AND THE MAXIMUM SOCIAL SECURITY DISABILITY BENEFIT OF $600.00 AND THAT THE SPOUSE IS ENTITLED TO THE $300.00 MONTHLY BENEFIT. THE BENEFITS PAYABLE WOULD BE:

SOCIAL SECURITY		$207.12 WEEKLY
OFFSET (ONE-HALF)	$103.56	
WORKERS' COMPENSATION ($219.00 - $103.56)		$115.44 WEEKLY
TOTAL BENEFIT (TAX FREE)		$322.56 WEEKLY

THIS IS AN ANNUAL BENEFIT OF $16,819.25 (TAX FREE)

WHEN A TOTALLY DISABLED WORKER REACHES AGE 65, THE SOCIAL SECURITY BENEFITS ARE CHANGED TO RETIREMENT BENEFITS. THERE IS NO CHANGE IN THE AMOUNT OF THE BENEFITS, JUST A CHANGE IN THE CLASSIFICATION. THE MONTANA WORKERS' COMPENSATION ACT DOES NOT PROVIDE FOR A REDUCTION (OFFSET) OF WORKERS' COMPENSATION BENEFITS WHEN SOCIAL SECURITY RETIREMENT BENEFITS ARE PAID.

ASSUME THE SAME INJURED WORKER REACHES THE AGE OF 65. I WILL USE THE SAME SOCIAL SECURITY BENEFITS EVEN THOUGH THEY WOULD BE INCREASED BY THE AMOUNT OF COST OF LIVING INCREASES GRANTED BY THE SOCIAL SECURITY ACT. THE INCREASES VARY DEPENDING ON THE COST OF LIVING INDEX. THE LAST INCREASE WAS ABOUT 13%.

SOCIAL SECURITY BENEFITS	$207.12 WEEKLY
WORKERS' COMPENSATION BENEFITS	$219.00 WEEKLY
TOTAL BENEFITS (TAX FREE)	$426.12 WEEKLY

THIS IS AN ANNUAL BENEFIT OF $22,219.18 OR AN INCREASE OF $5,399.93 SIMPLY FOR REACHING AGE 65. INCIDENTALLY, THE INJURED WORKER NEED EARN ONLY $328.50 WEEKLY OR $17,128.98 ANNUALLY TO BE ENTITLED TO THE MAXIMUM WORKERS' COMPENSATION WEEKLY BENEFIT.

THE UNINJURED FELLOW EMPLOYEE WHO RETIRES AT AGE 65 WOULD RECEIVE, WITH THE BENEFITS PAYABLE TO THE SPOUSE, A MAXIMUM OF $900.00 MONTHLY OR $10,800.00 ANNUALLY IN SOCIAL SECURITY BENEFITS.

SENATE BILL 64 PROVIDES FOR THE TERMINATION OF TOTAL DISABILITY BENEFITS UNDER THE WORKERS' COMPENSATION ACT WHEN THE INJURED WORKER

RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS. IT DOES PROVIDE THAT THE INJURED WORKER COULD RECEIVE BENEFITS FOR PERMANENT PARTIAL DISABILITY, MAXIMUM WEEKLY RATE PRESENTLY IS $109.50. PERMANENT PARTIAL DISABILITY BENEFITS ARE PAID FOR A MAXIMUM OF 500 WEEKS OR 9.6 YEARS.

UNDER SENATE BILL 64, THE WORKER AND THE SPOUSE, AT AGE 65, WOULD RECEIVE BENEFITS AS FOLLOWS:

SOCIAL SECURITY	$207.12 WEEKLY
WORKERS' COMPENSATION	$109.50 WEEKLY
TOTAL BENEFITS (TAX FREE)	$316.82 WEEKLY

THIS IS AN ANNUAL BENEFIT OF $16,519.95 WHICH IS 96% OF THE TAXABLE EARNINGS NECESSARY TO DRAW THE MAXIMUM TAX FREE WORKERS' COMPENSATION BENEFITS. THE BENEFITS WOULD EXCEED THE EARNINGS AFTER TAXES.

IF A WORKER IS RETIRED AND RECEIVING SOCIAL SECURITY RETIREMENT BENEFITS, BENEFITS WOULD BE PAID ON ANNUAL EARNINGS OF THE WORKER, WHICH ARE LIMITED UNDER THE SOCIAL SECURITY ACT.

SENATE BILL 64 DOES NOT PROVIDE FOR TERMINATION OF WORKERS' COMPENSATION BENEFITS FOR TOTAL DISABILITY FOR AN INJURED WORKER WHO IS NOT RECEIVING SOCIAL SECURITY RETIREMENT BENEFITS. THESE WORKERS WOULD RECEIVE THE SAME BENEFITS FOR TOTAL DISABILITY AS AN INJURED WORKER WHO HAS NOT REACHED AGE 65. AN INJURED WORKER, AGE 65 OR OLDER, WOULD NEED TO APPLY FOR RETIREMENT SOCIAL SECURITY BENEFITS BEFORE SENATE BILL 64 WOULD CHANGE THE WORKERS' COMPENSATION BENEFITS THAT ARE PAID.

SENATE BILL 64 WOULD PREVENT THE PAYMENT OF MAXIMUM BENEFITS FOR TOTAL LOSS OF WAGES TO A WORKER WHO IS ALSO RECEIVING RETIREMENT BENEFITS.

I SUBMIT THAT SENTATE BILL 64 WOULD CREATE NO HARDSHIP AND RESPECTFULLY REQUEST THAT THIS COMMITTEE REPORT SENATE BILL 64 - DO PASS.

EXHIBIT 4

Irvin E Dellinger Exec. Secretary Montana Building Material Dealers' Association

I apprear here in favor of S B # 64

One of the most expensive cost of doing business as you all know is payroll and payroll taxes or benefits. Today over a third of payroll cost goes to benefits. Two of these increasing cost are social security and workmans comp. Wheras we want to protect our employees when they become injured on the job, we do not feel that if and when other benefits are available, they should be able to collect from both funds.

Today we hear that we need and have to control costs, for these reasons we feel that S.B. # 64 is a good bill.

Thank You

Irvin E Dellinger

64

EXHIBIT 5

SB 64

My name is Jerry Driscoll, from Laborers Local 98, Billings. I am here to oppose Senate Bill 64.

This bill addresses totally disabled workers. These are workers who have suffered crippling injuries such as those described in the Montana Codes, Section 39-71-705(2). "The loss of both hands, both arms, both legs, both eyes or any two thereof in an accident ... shall constitute total disability permanent in character." Also included are other total permanent injuries which are both total and permanent in the opinion of medical doctors. This legislature has already passed Senate Bill 128, which requires "a preponderance of medical evidence," which means that the Workers Comp Division or an insurance company can require second or third opinions with legal standing.

SB 64 would reduce the benefits these disabled workers receive after the age of 65 by denying them workers compensation. It's not like these totally disabled elderly people need less to live on. They need more, because they require care of some kind.

You have to remember that workers comp does not automatically increase eveyy year. In fact, workers comp never increases, except by an act of the legislature. So if a person is totally disabled now, in 40 years he will still be drawing the same benefits. Just think what inflation can do in 40 years. For an example, a worker in southwest Montana went blind in the 1920s in an accident on the job. He is still drawing the same workers comp benefits he did then -- $10 every two weeks. And now this bill would take that away from him.

I ask you not to pass SB 64. It is unfair to totally disabled elderly people.

65

MONTANA LOGGING ASSOCIATION

P.O. Box 1716, Kalispell, Montana 59901

March 10, 1981

Testimony on: SB 64
Presented to: House State Administration Committee
Presented by: Keith L. Olson, Executive Director
Montana Logging Association

Chairman Feda, members of the committee:

The Montana Logging Association (MLA) represents independent logging contractors from throughout the state of Montana. We rise in support of SB 64 as it proposes to close an existing loop-hole in Montana's workers' compensation law. The most knowledgeable authority on this confusing issue is Montana's Division of Workers' Compensation. They understand that if SB 64 is not passed work. comp. will eventually become what it was never intended to be -- a pension plan! Furthermore, as the only method of funding this pension plan will be to increase work. comp. rates, the net result will be a loss of jobs and earnings for Montana's employee's.

In order that this committee may better understand the MLA's endorsement of SB 64 allow me to explain that work. comp. coverage is the most significant indirect expense in the cost of logging. When the MLA was formed less than 5 years ago, Montana's logging contractors were paying in excess of $37 in work. comp. premium for every $100 in wages paid to an employee. Currently, we pay $18.85 in premium for every $100 in wages paid an employee. We bring this to your attention to dramatize the MLA's concern that work. comp. rates can skyrocket if careful consideration is not given to all aspects of coverage.

Even though logging contractors are currently paying ½ the premium rate of 1976, by the time you add work. comp. to social security, unemployment, federal and state withholding, etc, an employee in the logging industry costs his employer approximately $40 for every $100 in wages earned. Obviously, a logging contractor must be extremely sure prior to hiring an employee that he will pay his way.

Because work. comp. rates have fluctuated drastically in past years the MLA is attempting to stabilize the rate in the logging industry. For our part the MLA has hired a full-time loss control officer to work with our employer members and their employee's to increase safety-awareness and minimize accidents in the logging industry. Logging contractors are well aware that an injured employee is not only non-productive, he becomes a financial liability to his employer. On the one-hand, accidents raise the employer's work. comp. rate. More importantly, however, an injured logger reduces the competitive efficiency of the logging crew. Efficient logging crews, like athletic teams, are finely tuned operations. When one member of that crew has to be replaced the productive efficiency of the entire crew decreases. However, as the MLA strives to reduce accidents it is just as imperative that the internal operation of the Division of Workers' Compensation strives to attain the highest level of efficiency, and that is precisely what SB 64 strives to accomplish. It strives

to prevent work. comp. coverage from becoming supplemental income for social security!

During committee hearings in the Senate, representatives of senior citizens argued that social security benefits were not adequate to to meet today's financial demands. We do not dispute this contention. We do dispute that Montana's employers should be required to provide additional financial support. Should SB 64 fail, tomorrow's work. comp. program will be in the same sad shape as today's social security program. Furthermore, the increase in premium to cover tomorrow's claims will effectively eliminate jobs for todays labor force.

One need only read last Sunday's Missoulian to understand the plight of the timber industry's unemployed. Now is the time to take responsible legislative action to ensure further damage is not caused by this loop-hole in the workers' compensation law. The Montana Logging Association respectfully urges your support for SB 64!

EXHIBIT 11

NAME: KEITH L. OLSON DATE: 10 MARCH 81

ADDRESS: BOX 1716 KALISPELL 59901

PHONE: 755-3185

REPRESENTING WHOM? Montana Logging Assn

APPEARING ON WHICH PROPOSAL: SB 64

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: TESTIMONY ATTACHED!

(1) SB 64 is supported by Montana's:
(A) Dept. of Labor & Industry
(B) Division of Workers' Compensation
(C) STATE Compensation Insurance Fund
(2) If not passed work-comp will become what it was never intended to be - a pension plan.
(3) The expense of this pension plan would undermine the solvency of the State Work Comp. Ins. Fund.
(4) Increases in work comp. costs would cost Montana's employee's future jobs & earnings
(5) The existing loop-hole will make employment for workers over 50 years of age hard to find!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BEST COPY AVAILABLE

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL SB 64 Date 3/10/81

SPONSOR ELLIOTT

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
George Wood	Missoula	Mt Self-Insurers Assn	✓	
Jon Wellinger	Helena	MBMDA	✓	
KEITH OLSON	KALISPELL	MT. Logging Assn	✓	
Clyde Smith	Kalispell	Clyde Smith logging	✓	
W.R. Hanley	Libby	Hanley Timber Co.	✓	
Wm Cuddy	Thompson Falls	Cuddy Logging Assn	✓	
Bud Fuller	Helena	Workers Compensation	✓	
Richard Grigl	Malta	Grigl Enterprises	✓	
Rocky W. Copenhaver	Helena	Self	✓	
Bob Nelding	Missoula	MT Wood Products Assn	✓	
MORRIS GUNNICKSON	LIVINGSTON	UNITED TRANSPORTATION UNION		✓
Paul A. Keller	Helena	Amer Dev Assn	✓	
[illegible]	[illegible]	[illegible]	✓	
TOM RYAN	HELENA	MONT. Senior Citizens Assn		✓
Jerry Driscoll	Billings	Laborers Union		X
James W. Murray	Helena	Mont. AFL-CIO		X
Linda Anderson	Helena	Senior Advocates		X
MIKE MELOY	HLNA	MT. TRIAL LAW ASSOC		X
LARRY HUSS	MONT CONTRACTORS ASS. MADA	HELENA	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

WITNESS STATEMENT

NAME Paul E. Kuhn BILL No. SB 64

ADDRESS Helena, Montana DATE 3/10/81

WHOM DO YOU REPRESENT American Insurance Association

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Workers compensation should never be a retirement system. Its purpose is to support an injured worker while he is out of the labor market. When he arrives at the age of retirement he should go on social security alone.

FORM CS-34
1-81

WITNESS STATEMENT

NAME Tom Ryan BILL No. SB64

ADDRESS Box 4243 - Helena DATE 3/10/81

WHOM DO YOU REPRESENT Mont Senior Citizens Assn.

SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr Chairman I oppose for many Reasons - chiefly -
This is a bill supported by people who work for the state - supposed to be serving us - And the people from industry where we get injured -
- Silicosis
Blacklung
Bodily injuries

We oppose And would like to see this defeated.

FORM CS-34
1-81

STATE ADMINISTRATION
MARCH 19, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 8:00 a.m. with Chairman Jerry Feda presiding. All members were present except Representatives Azzara and O'Connell who were excused. Representative Azzara left proxy votes for executive session.

SENATE BILL 387-SPONSOR, Senator Himsl, introduced this bill requested by the Legislative Audit Committee. This bill reestablishes the five-member Board of Veterans' Affairs for six additional years. This Board is now scheduled to terminate July 1, 1981, under a sunset provision. Senator Himsl said that the Audit Committee found some inefficiencies in the operation of the board but they are aware of this and will be trying to improve the operation and do a better job. He said that there is some cost involved but there is a need for intermediates to do some of the paperwork for the board.

PROPONENTS

BOB DURKEE, representing the Veterans of Foreign Wars, stated that the filling out of applications for these benefits is very detailed. If one thing is not completed the form is returned. This, he stated, is where the field service people and the local people that work for the board are able to help.

JACK McGLYNN, V.F.W. and member of the Board, appeared in support of the bill and said that the board would improve on their operation. He said that some of the duplication the board has had in the past was due to a lack of communication.

TONY CUMMING, American Legion, said that the WWII veterans are getting older and need help now. The Board will be more important in the future.

SENATOR PAT RYAN, echoed comments of other proponents.

REPRESENTATIVE JOHN PHILLIPS, concurred with other proponents of SB 387.

OPPONENTS

There were none present.

EXECUTIVE SESSION (cont.)

SENATE BILL 412 — BE CONCURRED IN

Representative Mueller moved that SB 412 BE CONCURRED IN. A vote was taken and carried with 15 YES, 1 NO and 2 members absent. Representative Kropp voted no and Representative Spilker abstained.

Representative McBride was assigned to carry SB 412.

SENATE JOINT RESOLUTION 8 - BE CONCURRED IN AS AMENDED

Representative McBride said that the study should include all of the departments.

Representative Spilker said that in her opinion if she had to choose one area to study it would be the Departments of Fish, Wildlike and Parks.

Representative Smith made a BE NOT CONCURRED motion.

Representative Dussault proposed an amendment that would strike section 5 in its entirety. She said the reason for this is because she thinks this study should be directed to the Interim Finance Committee, especially the part that addresses the Coal Board.

A vote was taken on the motion to amend and carried unanimously.

Representative Spilker made a substitute motion that SJR 8 BE CONCURRED IN AS AMENDED.

A vote was taken and carried with 14 YES, 2 NO and 3 members absent. Representatives McBride and Smith voted no.

Representative Spilker was assigned to carry SJR 8 in the House.

SENATE BILL 64 — BE CONCURRED IN

Representative Mueller made a motion that SB 64 BE CONCURRED IN. Following Discussion a vote was taken and carried with 12 YES, 5 NO and 2 absent. Representatives Kennerly, Pistoria, McBride, Dussault, and Azzara voted no.

Representative Sales was assigned to carry SB 64 in the House.

SENATE BILL NO. 64

INTRODUCED BY ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT TOTAL DISABILITY COMPENSATION BENEFITS WILL TERMINATE WHEN A CLAIMANT RECEIVES RETIREMENT SOCIAL SECURITY BENEFITS OR WHEN DISABILITY SOCIAL SECURITY BENEFITS ARE CONVERTED TO RETIREMENT BENEFITS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Termination of total disability benefits upon retirement. If a claimant is receiving total disability compensation benefits and the claimant receives retirement social security benefits or disability social security benefits paid to the claimant are converted by law to retirement benefits, the claimant is considered to be retired and no longer in the open labor market. When the claimant is considered retired, the liability of the insurer is ended for payment of such compensation benefits. This section does not apply to permanent partial disability benefits. Medical benefits are expressly reserved to the claimant.

-End-

REFERENCE BILL
SB 64